THE HON'BLE MR JUSTICE J.CHELAMESWAR

WRIT PETITION No. 14658 of 1996

Dated: 02.08.2006

Between:

S.A. Razak

… Petitioner

AND

Director of Sugars & Cane Commissioner,
A.P., Hyderabad & another.

… Respondents

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WRIT PETITION No. 14658 of 1996

ORDER:-

The petitioner is a member of the Common Cadre Service constituted under Section 116 of the A.P. Cooperative Societies Act. The 1st respondent is the appointing authority of the petitioner. Under the scheme of the said Act, the services of the employees form part of such a cadre are utilized under various cooperative societies, as decided by the 1st respondent. At the relevant point of time, to the present writ petition, the petitioner was working as Chief Accounts Officer under the 2nd respondent.

The undisputed facts are that on 20.09.1993 the petitioner was kept under suspension by the 1st respondent. As a consequence of the same, the petitioner was only paid 50% of the salary to which he was entitled to, until he was reinstated on 29.06.1995 with effect from the same date. A further undisputed fact is that though the petitioner was kept under suspension, no further disciplinary action whatsoever was initiated ever against him. Finally, the 1st respondent chooses to reinstate the petitioner in to service one day prior to his retirement.

As no disciplinary action was initiated against the petitioner, the fact remains that the petitioner was kept under suspension without any justifiable cause. The petitioner, therefore, filed the present writ petition with a prayer as follows:

> "… … Hon'ble Court may be pleased to issue a writ of Mandamus or any other appropriate writ and direct the first respondent to act in accordance with law and allow the consequential benefits including the arrears of salary till the date of retirement of the

petitioner consequent on the orders of the first respondent in proceedings No.Rc.AD/6 dated 29.06.1995 revoking the order placing the petitioner in suspension (from 20.09.1993 to 30.06.1995) with all the consequential benefits including retirement benefits and gratuity, and grant such other relief as it deems fit in the circumstances of the case."

When the matter is taken up, the 2nd respondent though served filed a counter in substance stating that it is only the 1st respondent who is answerable to the prayer in the writ petition.

On behalf of the 1st respondent the only submission made by the learned Government Pleader is only by the proceedings dated 30.11.2005 of the 1st respondent, the 1st respondent settled certain retirement benefits of the petitioner as follows:

"3. Consequent on retirement, Late S.A. Razak, Chief Accounts Officer (Retired) is hereby:

(i) Permitted to surrender 90 days (Ninety days only) of Earned Leave available at his credit as on the date of his retirement, under Regulation No.19(B)(d) of Common Cadre Regulations issued vide proceedings 1st read above; &

(ii) Permitted to draw Gratuity as per Gratuity Act & Rules for the period he worked as Common Cadre Officer from 12.10.1981 to 30.06.1993 AN.

(iii) During the period of service, the individual has availed Extra Ordinary Leave on loss of pay for the period from 08.06.1986 to 24.08.1986.

4. The Managing Director, Chodavaram Cooperative Sugars Limited, Govada (where Late S.A. Razak last worked as Chief Accounts Officer) is hereby instructed to draw and disburse the above terminal benefits on the last basic pay drawn by the

officer @ Rs.2510/- as on the date of his original retirement on 30.06.1993 AN and then claim the proportionate amounts from the other Cooperative Sugar Factories."

The fact that the claim of the petitioner for release of salary and other benefits as claimed in the writ petition were never considered or decided even in the proceedings of the 1st respondent dated 30.11.2005. Neither of the respondents have any legally tenable defence. At any rate, nothing was argued before me as to how the petitioner is not entitled for the relief claimed by him.

In the circumstances, the writ petition is to be allowed as prayed for.

Accordingly, the writ petition is allowed. No costs.

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J.CHELAMESWAR, J

Date: 02.08.2006
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